

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, ) **Case No. 3:19-mj-01094-BN-1**  
) **(CR-19-576, USDC EDNY,**  
Plaintiff, ) **Brooklyn Division)**  
)  
v. ) Dallas, Texas  
) December 10, 2019  
GENARO GARCIA LUNA, ) 1:00 p.m. Docket  
)  
Defendant. ) INITIAL APPEARANCE -  
) RULE 5 ARREST  
)

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE DAVID L. HORAN,  
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Government: Rick Calvert  
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For the Defendant: Rose L. Romero  
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Spanish-English Yovana Gonzalez  
Interpreter:

Recorded by: Shakira K. Todd  
UNITED STATES DISTRICT COURT  
1100 Commerce Street, Room 1452  
Dallas, TX 75242-1003  
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Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

1                   DALLAS, TEXAS - DECEMBER 10, 2019 - 1:32 P.M.

2                   THE COURT: All right. The Court will next call the  
3 case of United States of America versus Genaro Garcia Luna,  
4 Case No. 3:19-mj-1094-BN.

5                   MR. CALVERT: Rick Calvert for the United States,  
6 Your Honor.

7                   THE COURT: Good afternoon.

8                   MS. ROMERO: Rose Romero, Your Honor, --

9                   THE COURT: Good afternoon.

10                  MS. ROMERO: -- for Mr. Garcia. Or for Mr. Garcia  
11 Luna.

12                  THE COURT: Good afternoon, Mr. Garcia Luna.

13                  THE DEFENDANT: (through Interpreter) Good  
14 afternoon, Your Honor.

15                  THE COURT: Sir, you need the services of a Spanish  
16 interpreter; is that correct?

17                  THE DEFENDANT: Yes, thank you, sir.

18                  THE COURT: Ms. Gonzalez will be assisting you with  
19 translation. She is still under oath as a Spanish interpreter  
20 from the case immediately before this.

21                  Sir, this is your initial appearance, having been arrested  
22 on this arrest warrant in connection with an indictment out of  
23 the United States District Court for the Eastern District of  
24 Texas -- Eastern District of New York, rather. Let me advise  
25 you of your constitutional rights.

1           You have the right to remain silent. You're not required  
2           to make a statement concerning any charge against you. If you  
3           have made a statement, you're not required to say anymore.  
4           And if you start to make a statement, you may stop at any  
5           time. But any statement that you do make may later be used  
6           against you.

7           You have the right to be represented by an attorney at  
8           every stage of the case. If you cannot afford to hire a  
9           lawyer, the Court will appoint a lawyer for you.

10          Mr. Garcia Luna, do you understand these constitutional  
11          rights I've just explained?

12                 THE DEFENDANT: Yes, sir.

13                 THE COURT: Ms. Romero is appearing here as your  
14          retained counsel today. Have you all been able to review the  
15          indictment out of the Eastern District of New York and discuss  
16          the charges against you?

17                 THE DEFENDANT: Yes, sir.

18                 THE COURT: After doing so, do you generally  
19          understand what it is you're being charged with?

20                 THE DEFENDANT: Yes, sir.

21                 THE COURT: I've received information that suggests  
22          you may be a citizen of a country other than the United  
23          States. I don't want you to tell me right now whether that's  
24          true or not, but if you are a citizen of a country other than  
25          the U.S., you would have the right to have consular officers

1 from your country that are here in the United States notified  
2 of your arrest and to communicate with them. They might be  
3 able to help you obtain legal representation or contact your  
4 family, among other things.

5 If this right applies to you, you could exercise it at any  
6 time by notifying Ms. Romero or the Court. But if you  
7 exercise this right at this time, it may be considered an  
8 admission that you're not a U.S. citizen.

9 Would you like to talk further with Ms. Romero after this  
10 hearing about this right, to the extent it may apply to you?

11 THE DEFENDANT: I don't want to exercise my right.

12 THE COURT: Okay. But you do understand the right  
13 that I just explained to you?

14 THE DEFENDANT: Yes, yes.

15 THE COURT: Okay.

16 THE DEFENDANT: Thank you.

17 THE COURT: As I mentioned, you're being -- you have  
18 been arrested in connection with a warrant issued -- or, on a  
19 warrant issued out of the Eastern District of New York in  
20 connection with an indictment that's been handed down by a  
21 grand jury there. You therefore, having been arrested here,  
22 in a different district, have the right to two hearings, one  
23 of which could only happen here and one of which you can have  
24 here or in the Eastern District of New York, but not both  
25 places.

1       The first is a so-called identity hearing. This is a  
2 hearing at which the Government would have to establish that  
3 you are the same Genaro Garcia Luna named in those documents  
4 and in the indictment out of the Eastern District of New York,  
5 such that you should be required to face the charges there in  
6 that Court. But you can waive or give up your right to an  
7 identity hearing if you don't contest that you are the same  
8 individual named in the indictment. That doesn't mean you  
9 agree to the allegations in there or the charges, but just  
10 that you don't disagree that you are the person the Government  
11 is intending to charge.

12       The Government has also filed a motion for detention,  
13 asking that you be held in custody while this case is pending  
14 and through trial in the Eastern District of New York. You  
15 have the right to a hearing on that, as I said, either here or  
16 in the Eastern District of New York, but not both places, with  
17 an attorney -- in this case, if it was here, Ms. Romero --  
18 representing you. And the question would be whether you  
19 should be detained while the case is pending or could be  
20 released on bond or conditions.

21       Have you and Ms. Romero discussed these matters?

22             THE DEFENDANT: Yes, sir, we have. Thank you.

23             THE COURT: Okay. All right. Ms. Romero, I do have  
24 a written signed waiver form here that provides that Mr.  
25 Garcia Luna is agreeing to waive his right to an identity

1 hearing and production of the warrant. Is that correct?

2 MS. ROMERO: That is correct, Your Honor.

3 THE COURT: All right. And with regard to detention,  
4 on the Government's motion for detention, how would Mr. Garcia  
5 Luna like to proceed?

6 MS. ROMERO: Yes. We want to have a detention  
7 hearing, Your Honor. And we ask for our -- that it be -- I  
8 think we've agreed to Tuesday of next week, --

9 THE COURT: Okay.

10 MS. ROMERO: -- at 1:00 o'clock or 1:30, whenever the  
11 Court is -- has a docket that day.

12 THE COURT: All right. And Mr. Calvert, that'll work  
13 for the Government as well?

14 MR. CALVERT: It does, Your Honor.

15 THE COURT: All right. I'll just go ahead and fill  
16 this out real quick. All right.

17 All right. Mr. Garcia Luna, as we just discussed and  
18 you've confirmed you understand, by giving up your right to an  
19 identity hearing, it means that I will find you are the same  
20 individual who's named in these documents out of the Eastern  
21 District of New York and that, pending a -- that one way or  
22 the other, that you should be required to go to the Eastern  
23 District of New York to face the charges in that Court. Do  
24 you understand that?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: All right. I do find Mr. Garcia Luna's  
2 waiver of his right to an identity hearing is made knowingly  
3 and voluntarily, and therefore I do find that he is the same  
4 individual named in the documents out of the Eastern District  
5 of New York.

6           With regard to detention, I'll set down the detention  
7 hearing for this coming Tuesday. That'll be December 17, 2019  
8 on the 1:00 p.m. docket here in this courtroom before me, and  
9 this order will temporarily hold Mr. Garcia Luna in custody  
10 until that hearing can take place.

11          Ms. Romero, have you and Mr. Garcia Luna discussed Rule 20  
12 rights?

13          MS. ROMERO: I'm sorry?

14          THE COURT: Have you all discussed Rule 20 rights at  
15 this point?

16          MS. ROMERO: Yes. I think --

17          THE COURT: Okay. You have?

18          MS. ROMERO: -- we have, Your Honor.

19          THE COURT: Okay. Very good.

20          Mr. Garcia Luna, do you have any questions about anything  
21 we've gone over here today?

22          THE DEFENDANT: No. No, thank you.

23          THE COURT: Ms. Romero, anything further for today?

24          MS. ROMERO: Nothing, Your Honor.

25          THE COURT: All right. For the Government, Mr.

1 Calvert?

2 MR. CALVERT: Nothing further, Your Honor. Thank  
3 you.

4 THE COURT: All right. Good luck to you, Mr. Garcia  
5 Luna. The Defendant is remanded into the custody of the  
6 United States Marshal pending further proceedings next week,  
7 and counsel are excused.

8 (Proceedings concluded at 1:38 p.m.)

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CERTIFICATE

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I certify that the foregoing is a correct transcript from  
the electronic sound recording of the proceedings in the  
above-entitled matter.

23

***/s/ Kathy Rehling***

***12/13/2019***

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\_\_\_\_\_  
Kathy Rehling, CETD-444  
Certified Electronic Court Transcriber

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Date



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